



## Early Journal Content on JSTOR, Free to Anyone in the World

This article is one of nearly 500,000 scholarly works digitized and made freely available to everyone in the world by JSTOR.

Known as the Early Journal Content, this set of works include research articles, news, letters, and other writings published in more than 200 of the oldest leading academic journals. The works date from the mid-seventeenth to the early twentieth centuries.

We encourage people to read and share the Early Journal Content openly and to tell others that this resource exists. People may post this content online or redistribute in any way for non-commercial purposes.

Read more about Early Journal Content at <http://about.jstor.org/participate-jstor/individuals/early-journal-content>.

JSTOR is a digital library of academic journals, books, and primary source objects. JSTOR helps people discover, use, and build upon a wide range of content through a powerful research and teaching platform, and preserves this content for future generations. JSTOR is part of ITHAKA, a not-for-profit organization that also includes Ithaka S+R and Portico. For more information about JSTOR, please contact [support@jstor.org](mailto:support@jstor.org).

## A MENACE TO AMERICA'S ORIENTAL TRADE.

BY WONG KAI KAH, HIS IMPERIAL CHINESE MAJESTY'S VICE-COMMISSIONER TO THE LOUISIANA PURCHASE EXPOSITION.

---

THE United States, as a government and a people, stands with the Chinese, if such a thing is possible, in the position of a most favored nation. The humane action of American soldiers, officers and men, who, in the late trouble in the north of China, everywhere acted in a spirit of fairness, justice and equity towards all, without question as to race, color or creed; the friendship of the United States Government in granting China's appeal to accept payment of the heavy war indemnity in silver; the recognized facts that the United States has no ulterior object beyond trade, no designs of seizing Chinese territory, have caused a feeling of sincere friendliness both in the Chinese officials and people, with a desire to encourage American interests in our country. I do not want to criticise American laws, for I must admit that laws made by the wisdom of American legislators must be accepted as good ones for the people of the United States, even if a discrimination against another people, the policy of excluding Chinese laborers, is one that might, no doubt, lead to a division of opinion. But I am sure that, if the abuse in the carrying out of the provisions of the exclusion law, as applied to the Exempt Class, were understood by the great American public, there would be a unanimous opinion, especially upon the part of the merchants and business people who want to trade with China, that a wrong is being needlessly inflicted, which, unless checked, is sure to lead to retaliation and to drive China's great trade into more friendly hands.

The laws of the United States specifically provide that certain classes of Chinese—the merchant, the student and the traveller for pleasure or curiosity—can enter this country upon producing an appropriate certificate from their Government, endorsed by the

United States consul or diplomatic officer at the port of departure; but under the rulings of the Treasury Department:

"Collectors of customs are directed to admit only Chinese whose occupation or station clearly indicates that they are members of the Exempt Class."

Under the Chinese regulations issued by the Commissioner-General of Immigration, approved by the Secretary of Commerce and Labor, July 27th, 1903, it is provided as follows:

"Rule 6. Immediately upon the arrival of Chinese persons, it shall be the duty of the officer in charge of the administration of the Chinese exclusion laws to adopt suitable means to *prevent communication with them by any persons other than officials under his control*, to have said Chinese persons examined promptly, as by law provided, touching their right to admission, and to permit *those proving such right to land*."

"Rule 7. The examination prescribed in Rule 6 should be separate and *apart from the public*, in the presence of Government officials and *such witness or witnesses only as the examining officer shall designate*; and if, upon the conclusion thereof, the Chinese applicant for admission is *adjudged* to be inadmissible, he should be advised of his right of appeal, and his counsel should be permitted, after duly filing notice of appeal, to examine, *but not make copies of*, the evidence upon which the excluding decision is based."

"Rule 8. Every Chinese person refused admission under the provisions of the exclusion laws by the *decision of the officer in charge* at the port of entry must, if he shall elect to take an appeal to the Secretary of the Treasury, give written notice thereof to said officer *within two days* after such decision is rendered."

Rule 6 prevents a Chinese visitor from even communicating with friend, adviser or counsel. One man decides he is not admissible, and there is given to one who is a stranger to the United States, its customs and laws, not even an explanation of the reasons why he is refused permission to land; and though, more than probably, he has no knowledge of the English language, he is allowed forty-eight hours in which to secure advice, assistance, and file a notice of appeal.

"Rule 9. Notice of appeal provided for in Rule 8 shall act as a stay upon the disposal of the Chinese person whose case is thereby affected, until a *final decision is rendered by the Secretary*; and, *within three days* after the filing of such notice, unless further delay is required to investigate and report upon new evidence, the complete record of the case, together with such briefs, affidavits and statements *as are to be considered*

in connection therewith, shall be forwarded to the Commissioner-General of Immigration by the officer in charge at the port of arrival, *accompanied by his views* thereon in writing; *but on such appeal no evidence will be considered that has not been made the subject of investigation and report by the said officer in charge.*"

Two days are given to a stranger to get advice, assistance and file an appeal, and three days to get evidence to reverse the ruling of the officer who decides against him; and if the officer does not investigate (and there is no obligation upon him to do so), the evidence cannot be considered at the resource of appeal.

Is not this a travesty upon justice, and an undue "railroading," as it is called in this country, especially considering that the matter involved is the case of a Chinese gentleman, who has the *prima facie* evidence, in the shape of a certificate from his Government, examined and sealed by a United States consul, that he is entitled to land. Could harsher measures be adopted to bar out lepers, or dangerous anarchists or criminals?

"*Rule 21. The burden of proof in all cases rests upon Chinese persons claiming the right of admission to, or residence within, the United States, to establish such right affirmatively and satisfactorily to the appropriate Government officers; and in no case in which the law prescribes the nature of the evidence to establish such right shall other evidence be accepted in lieu thereof, and in every doubtful case the benefit of the doubt shall be given by administrative officers to the United States Government.*"

"*Rule 23. All certificates, or other evidence, offered by Chinese persons to establish their right of admission to the United States, shall be retained by the officers in charge of the administration of the Chinese exclusion laws at ports of entry; the immunity from arrest of the Chinese persons admitted thereon resting upon their exclusive occupation in the pursuits for which their certificates, or other evidence, claim that they respectively seek admission to the United States.*"

After the Chinese visitor has run the gauntlet at the port of entry, the United States takes from him and keeps all his documents and turns him loose, liable to arrest; and if he is arrested, the burden rests upon him in a strange land to prove that he is innocent. At any moment, any officious officer or other person can maliciously cause his arrest, simply because he is a Chinaman without a paper, and the law says: "Now stay in jail until you prove you are innocent or have a right to be here."

"Rule 28. The omission from a certificate prescribed by Section 6 of the act approved July 5, 1884, of any of the information required by said section is *fatal* to the sufficiency of such certificate, as evidence of the right of the person to whom issued to enter the United States."

As the United States consul is required to visé this document, why should he, if it is not in order, pass, sign and deliver it?

"Rule 32. In considering evidence touching the right of a Chinese student to enter the United States, administrative officers should be governed by the opinion of the Solicitor of the Treasury Department (of June 15, 1900), that a Chinese student within the intention of the treaty of December 8, 1894, and of the laws, is 'a person who intends to pursue some of the higher branches of study, or one who seeks to be fitted for some particular profession or occupation for which facilities of study are not afforded in his own country; one for whose support and maintenance in this country, as a student, provision has been made, and who, upon completion of his studies, expects to return to China.'"

The treaty of December 8th, 1894, provided:

"That the provisions of this Convention shall not affect the right at present enjoyed of Chinese subjects, being officials, teachers, students, merchants or travellers for curiosity or pleasure, but not laborers, of coming to the United States and residing therein."

This is the literal wording of this Section of the Treaty as executed by the respective Governments; and there is no doubt that the intent upon the part of the United States Government was to exclude laborers, and upon the part of the Chinese Government that the rights of those mentioned should be the same as before, to come and go upon obtaining a certificate from the Chinese Government, visé by the United States consul:

"To entitle such Chinese subjects as are above described to admission into the United States, they may produce a certificate from their Government or the Government where they last resided, visé by the diplomatic or consular representative of the United States in the country or port whence they depart."

Without questioning the definition of the word "student" by the Solicitor of the Treasury Department, would it not be as well to consider the injustice to the Chinese, and the injury to the people of the United States, involved in refusing these young men of China the right to come to the United States and study in its schools, a privilege for which they pay?

In the next decade or two, those who are now the sons of the rich merchants and high officials of China will be the dominating powers in Chinese commerce and politics, and in their hearts will be a preference, a special friendliness, towards that country wherein they formed the associations of their youth, while acquiring education to fit them for their position in life.

Is it wise to shut American doors in their faces and send them to other countries, making them pro-European as against Americans in the competition for the trade and favors of China?

Under the Act of August 18th, 1894, it is provided:

"In every case where an alien is excluded from admission into the United States under any law or treaty now existing or hereafter made, the decision of the appropriate immigration or customs officers, if adverse to the admission of such alien, *shall be final*, unless reversed on appeal to the Secretary of the Treasury."

A careful consideration of these rules and regulations, with an examination of past procedures, precedents, must predispose the customs official to the belief that the duty imposed upon, and expected of, him is to keep out the applicant if he possibly can. It cannot tend to make him regard himself as an impartial judge,—practically the sole arbiter of the fate of a passenger who has travelled thousands of miles; it will rather encourage him to act the part of a prosecuting officer, whose duty it is to seek for a technicality whereby he may detain, restrain and, if possible, send back the Chinese visitor; nor will he be without the assurance that his zeal will be gauged and appreciated by the number of applicants to whom he denies admission, and that such acts will be approved by a majority of the American people.

When a Chinese merchant or student, legally entitled to come to this country, having what he believes to be an appropriate paper which the United States consul has signed and passed, who must benefit the country if in no other way than by the money he spends upon his arrival, attempts to enter the United States, his attempt is looked upon as a criminal offence; he is discriminated against, and subjected to an inquisition which humiliates him before his fellow passengers; and if there is a technical flaw in the papers, for which he is not responsible, or if there is a doubt in the mind of the customs official as to his occupation or station—as to his being a member of the Exempt Class—he is detained

in the pen on the steamship wharf, or imprisoned like a felon, until the customs officials are satisfied, and, after all this, more often than otherwise, he is sent back to China. The archives of the Chinese legations and various consulates, especially at San Francisco, are full of cases of this kind; but I can give an instance in the case of a young man whom I brought here with me.

A nephew of one of our high officials in China (who had received his education in the United States in the seventies along with myself), the son of one of our leading merchants in Shanghai, was sent by his father, with documents from the Chinese Government, properly viséd by the United States consul-general at Shanghai, as a first-class passenger, by the Canadian-Pacific route, to the United States to complete his education. The lad, fifteen years of age, had his queue cut off, and was dressed in foreign clothes; he had attended foreign schools in Shanghai, and spoke English fluently. Upon arrival at the American frontier, the customs official did not consider his papers sufficient to clearly indicate that he was of the Exempt Class (a student); they proceeded to cross-question this boy of fifteen, and in his answers found some technicality on which they held him up. After several months' detention in Canada, the boy was compelled to go all the way back to China.

Why should not this youth have been accepted on his Government papers, signed by the American consul-general?

Who would be injured by his entering, or who benefited by turning him back on a journey of ten thousand miles, to go home to his father, a large merchant, controlling thousands of dollars of trade, with the mortifying tale that "they would not let me in?"

Is it not natural that this merchant will retaliate in his trade dealings?

The official archives of the Chinese consul-general at San Francisco contain, amongst others, the case of a party of some thirty Chinese merchants who arrived at San Francisco in August, 1899, for the purpose of making connections, buying goods and generally improving their business relations with this country. The Collector refused them admission, simply on account of an omission of particulars respecting the nature and character of their business in the English portion of the certificate, although these particulars were fully given in the Chinese portion; and they were forced to return to China.

Is it reasonable to suppose that any of this group, or any friends of theirs, will give any trade they control to the United States by preference? Who was benefited by sending them away?

When American law-makers provided that an appropriate document from the Chinese Government must be secured and viséd by the United States consular official at the port of departure, it appears to me that they, in their wisdom, deemed the representative of the Government on the spot to be the person best qualified to determine whether the applicant was of the Exempt Class; and that they relied upon his satisfying himself that the document submitted to him was proper and adequate *before he affixed his seal* to it. If this is not so, then a sense of fairness, justice, even humanity, should dictate that United States consuls should be competent and instructed to refuse their seal, unless they are satisfied, of their own knowledge, or by conclusive evidence, that the party is of the Exempt Class, and that his papers are all in order. Do not let a man (there have even been cases in which women and children have been the victims) take a trip of thousands of miles, at great expense, in the belief he is right, to be subjected in the end to all kinds of hardships for reasons for which he is not responsible. In China, where a seal is official, and business is of the greatest importance, the mere act of affixing the United States consular seal is conclusive evidence to the Chinese of all being irrevocably in order.

In the case of the young man I brought over, should it have been required, the highest mercantile and banking firms and officials, foreign and Chinese, in Shanghai would have appeared before the United States consul-general and satisfied that official that the young man was a student, going to the United States to study, to complete his education, and entitled to enter the country.

The language, customs, phrases of the two people are so different that it is difficult for the Chinese to avoid mistakes in technicalities. What I advise is not concession,—no change of laws. But let American consuls in China be clearly instructed as to the nature and wording of the document required; let him, of his own knowledge, or by substantial proofs, be satisfied that the applicant is a merchant or of the Exempt Class, and let him refuse to sign, seal and deliver any papers until all these conditions are complied with. If there is any doubt, stop the party before leaving his own country. At the most, the Government and



the people of the United States can only want the law carried out, and the United States official in China, on the spot, with all means of obtaining evidence for and against any applicant, is better able to determine whether the applicant has the right to go, than the United States customs official at the port of entry.

The fact that a Chinese gentleman travels as a first-class passenger, should be considered as *prima facie* evidence that he is not a coolie, and liable to be a danger to the American laborer; and the presentation, when he makes his customs declaration, of his documents, sealed by the United States consul, should entitle him to the same treatment as other passengers.

I hope that the merchants and business men of this country, who are desirous of doing business with China, will consider and investigate this subject, and act before the root of retaliation has grown too deep to be torn up.

China has her press, that voices these "outrages," as they are called by the better class of thinking people. Every Chinese ill-treated in America or sent back from it spreads the story of his wrongs amongst his friends and their acquaintances.

The Hon. John Barrett was sent by America to our country, with an invitation to China to participate in the coming great World's Fair at St. Louis. Our Government responded, from its friendly sentiment towards the great American people, in a way that we trust is satisfactory. It is China's first official representation at an affair of this kind. Liberal appropriation was made; a commission was sent here to erect Government buildings; and a Prince of the royal blood will be at the opening of the Fair.

Every effort was made by the Government to enlist the co-operation of our merchants, so that our display might be a credit to China and an assistance to the American people in making her great World's Fair a success. Merchants all over China became enthusiastic, and preparations were going on for participation on a large scale, when, months after the invitation was extended, came the rulings of the Treasury Department, that Chinese coming here to take part in the Fair must be photographed, must comply with discriminating conditions not made applicable to any other nationals, and must give a bond that they will leave the country after the closing of the Fair.

Among the sixty-one rules issued by the Commissioner-General of Immigration, approved July 27th, 1903, while our merchants at great expense all over the country were preparing to exhibit at the Fair, we have the following:

"*Rule 44.* Every Chinese person seeking admission to the United States under the provisions of section 3 of the act approved April 29, 1902, for the purpose of taking part in any fair or exhibition authorized by act of Congress, shall, as a condition precedent to such admission, comply with the following conditions, and officers charged with the enforcement of the Chinese exclusion laws *shall* likewise, so far as action on their part is required, conform thereto. This rule takes the place of Treasury Department Circular No. 5, Bureau of Immigration, dated January 7, 1903.

"(a). Every such person shall furnish to the officer in charge of the enforcement of the Chinese exclusion laws at the port of entry, *satisfactory evidence* that he is a holder of a privilege from the officers of said exposition, or an employee of a holder of such a privilege, engaged to take part therein."

What knowledge has a party in China of what will be considered "*satisfactory evidence*" at the port of entry; and how many will come ten thousand miles with a doubt as to whether they will be turned back?

"(b). He shall furnish to the said officer in charge at the port of entry a photograph of himself, in triplicate, and *shall submit to such examination as may be deemed necessary to insure his identification.*"

The examination here required is thus defined in previous sections of these rules:

"Physical examination of his person, required by the Bertillon system of identification."

This is a procedure that is adopted in no other cases, conditions or country, except where *criminals* are concerned, a degradation that no self-respecting person can or should submit himself to, unless forced by matters of dire urgency, under which heading a desire to participate in a foreign country's exhibition should surely not be classed.

"(c). He shall, *if admitted*, proceed immediately, by direct and continuous travel, to the said exposition, wherever located; remain there during his stay in the United States; engage while there solely in the

occupation for which he was admitted; return within thirty days after the close of said exposition by direct and continuous travel *to the port* at which he was admitted and thence depart, by the first vessel sailing thereafter, to China or to the country of which he is a citizen or subject.

"(d). He shall furnish to the United States officer in charge, by whom he is admitted, a bond of \$500, *with a responsible bonding and surety company as surety*, conditioned for his immediate departure to said exposition grounds, his constant attendance and employment at said grounds, and his departure from the United States, all in accordance with the next preceding regulation."

Merchants are exempt from this paragraph (d); also from the following (i) and (j):

"(i). Should any such Chinese person desire *to leave the grounds* of said exposition temporarily, he *must* apply to the officer provided for in paragraph (g) hereof, who *may* issue to him a dated card, giving his name and other particulars for his identification, and stating that he is permitted to absent himself from said grounds *not longer* than forty-eight hours from the date of said card, which shall, upon his return within the specified time, be delivered to said officer and cancelled."

There is no obligation that the officer in charge *shall* grant the application. A man may be seriously ill, requiring medical attention that cannot be had on the exposition grounds; there is no certainty that he can be removed, and, under the requirement of this rule, he *must* be returned in forty-eight hours.

"(j). All Chinese persons holding such cards who fail to return within the forty-eight hours shall be deemed to be unlawfully within the United States, and the bonds given on their behalf shall be forfeited and such person shall be deported."

There is no reason, excuse, accident or even hearing allowed. A person acting in good faith may be physically unable to turn in his card within forty-eight hours; but his bond of \$500 shall be forfeited and he shall be deported.

Does this appeal to the average business man as the treatment which should be accorded to a fellow man whom Americans have invited to co-operate with them in making an American undertaking a success?

The publication of these rulings in the Chinese press led to indignation meetings of the merchants, and the determination of many to give up their contemplated exhibitions; and I fear

the participation of Chinese merchants in the Fair will not be as generous as it would otherwise have been.

For commercial reasons, it would have been to the interest of the United States never to have extended an invitation to the merchants of China, and not to have gone so far as to send an able representative there to awaken interest in the Fair. If conditions were to be prescribed for the Chinese different to those applicable to all other nations, it would have been wiser to state what those conditions were to be, so that the American representative could have made the invitation a conditional one, and not a general hearty welcome, such as our merchants believed it to be.

Every merchant in whom there was incited a desire to participate in the Fair, who made preparations, at expense of time and money, and who changed his determination upon the publication of these rules, will not bear a kindly sentiment towards the United States in his business dealings; he, no doubt, from personal grievances, either real or fancied, will become an agitator, where otherwise he might have remained passive.

In no other country is the power of boycott as strong as it is in China. Every trade, business, profession, has its guild or association, whose laws are almost paramount to the laws of the country; and often merchants accomplish the repeal of an obnoxious law or tax, or the removal of an unjust official, by closing their places of business and letting them remain closed until the remedy asked for is granted.

Let the statesmen of the East and South, the mill-owners and the thousands of operators remember that many of their mills were shut up on account of the temporary stoppage of trade during the late troubles in North China.

Let the business men and statesmen of the West and of the Pacific coast, whose growth and prosperity will be measured by the extent of American trade with the Orient, consider the danger of a commercial discrimination by China against the United States as an off-set to the wrongs the Chinese believe they are suffering under. The realization of this danger may lead to a better understanding of the real situation, and to the adoption of such remedies as will make impossible any interruption of the strong sentiment of friendship which has been cherished by the Chinese towards the great American people.

WONG KAI KAH.